

10/706,413

REMARKS

The Applicant thanks the Examiner for indicating that claims 3 and 4 are objected to as being dependent upon a rejected base claim but would be allowable if rewritten in independent form to include all of the limitations of the base claim and any intervening claim(s). In accordance with this indication, the subject matter of claim 3 is incorporated into independent claims 1, 12 and 14 and each one of those independent claims is now believed to be allowable. As claims 2 and 4-11 depend, either directly or indirectly, from newly amended independent claim 1 and as claim 13 depends from newly amended independent claim 12, those dependent claims are believed to be allowable as well.

The Applicant thanks the Examiner for indicating that claims 7 and 9-11 would be allowable if appropriately amended to overcome the raised rejection(s). In view of the above claim amendments, it is respectfully submitted that all of the pending claims are now in a condition for allowance.

Claims 7, 10 and 11 are rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for the reasons noted in the official action. The rejected claims are accordingly amended, by the above claim amendments, and the presently pending claims are now believed to particularly point out and distinctly claim the subject matter regarded as the invention, thereby overcoming all of the raised § 112, second paragraph, rejections. In particular, claims 7, 10 and 11 are amended to replaced the term "exhaust" with the term "blow-by gas", as suggested by the Examiner. The entered claim amendments are directed solely at overcoming the raised indefiniteness rejection(s) and are not directed at distinguishing the present invention from the art of record in this case.

Next, claims 1, 2, 5, 6 and 12-14 are rejected, under 35 U.S.C. § 103(a), as being unpatentable over Tochizawa '863 while claims 1, 2, 5, 6, 8 and 12-14 are rejected, under 35 U.S.C. § 103(a), as being unpatentable over Lohr et al. '105. The Applicant acknowledges and respectfully traverses the raised obviousness rejections in view of the following remarks.

In view of the above claim amendments to independent claims 1, 12 and 14 (i.e., to include the allowable subject matter of claim 3), the Applicant respectfully submits that further comments concerning the applied prior art of Tochizawa '863 and/or Lohr et al. '105 is not believed necessary. The Applicant also notes the remaining prior art cited in the official action. As none of that additional art is applied by the Examiner against the claims of this application, the Applicant is not providing any comments concerning that art as well.

If any further amendment to this application is believed necessary to advance prosecution and place this case in allowable form, the Examiner is courteously solicited to contact the undersigned representative of the Applicant to discuss the same.

In view of the above amendments and remarks, it is respectfully submitted that all of the raised rejections should be withdrawn at this time. If the Examiner disagrees with the Applicant's view concerning the withdrawal of the outstanding rejection(s) or applicability of the Tochizawa '863 and Lohr et al. '105 references, the Applicant respectfully requests the Examiner to indicate the specific passage or passages, or the drawing or drawings, which contain the necessary teaching, suggestion and/or disclosure required by case law. As such teaching, suggestion and/or disclosure is not present in the applied references, the raised rejection should be withdrawn at this time. Alternatively, if the Examiner is relying on his/her expertise in this field, the Applicant respectfully requests the Examiner to enter an affidavit substantiating the Examiner's position so that suitable contradictory evidence can be entered in this case by the Applicant.

In view of the foregoing, it is respectfully submitted that the raised rejections should be withdrawn and this application is now placed in a condition for allowance. Action to that end, in the form of an early Notice of Allowance, is courteously solicited by the Applicant at this time.

The Applicant respectfully requests that any outstanding objection(s) or requirement(s), as to the form of this application, be held in abeyance until allowable subject matter is indicated for this case.

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In the event that there are any fee deficiencies or additional fees are payable, please charge the same or credit any overpayment to our Deposit Account (Account No. 04-0213).

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Michael J. Bujold", is written over the typed name and contact information.

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